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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 26TH DAY OF MAY 1998

BEFORE

THE HON'BLE Mr. JUSTICE H.L. DATTU

WRIT PETITION No. 3025/1993

BETWEEN:

Sri H. Ramaiah
s/o. lt. Hanumappa,
aged about 65 years,
Watchman,
Sri Someshwara Swamy
Temple, ulsoor,
Bangalore - 8.

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... PETITIONER

(By Smt. K. Sheela, Adv.)

AND :

1. The Muzrai Officer
Corporation Area,
Podium Block,
3rd Floor,
Dr. Ambedkar Veedhi,
Bangalore - 1.

2. The Executive Officer
Sri Someshwara Swamy
Temple, Ulsoor,
Bangalore - 8.

... RESPONDENTS

(By Sri Udayshankar, AGA, for
R-1, Sri S. Rangaswamy, Adv.
for R-2)

This writ petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to quash the order of the respondents terminating the services of the petitioner and etc.

This writ petition coming on for hearing this day, the Court made the following;

ORDER

Petitioner aggrieved by the orders passed

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by the Muzrai Officer dated 22.12.1992 has approached this Court in a petition filed under Article 226 of the Constitution.

2. Briefly the facts are, petitioner was working as a watchman in Sri Someshwara Swamy Temple, Ulsoor, Bangalore, which is a Muzrai institution. While working as a watchman he was served with a show cause notice dated 14.08.1992, interalia alleging that petitioner had committed certain misconduct. He was asked to offer his explanation within a particular time by the first respondent officer. Pursuant to the said notice petitioner had filed detailed reply dated 24.08.1992 denying the allegations made in the show cause notice and also offering his explanations to the allegations made therein. In spite of receiving such a reply from the petitioner, the respondent authorities have proceeded to dismiss the petitioner from the services of the temple by their order dated 22.12.1992. It is this order which has brought the petitioner before this Court being aggrieved by the same.

3. Learned counsel appearing for the petitioner contends that the respondent authorities could not have dismissed the petitioner from the

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services of the temple without holding an enquiry and therefore submits that the order of dismissal made by the respondents is wholly without authority of law.

4. Per contra Sri Udayshankar learned Government Advocate submits that against the orders made by the Muzrai officer petitioner has a right of appeal and without exhausting such an appeal remedy, petitioner could not have approached this Court.

5. Statute may provide an alternative remedy against the orders made by the Muzrai officer but, the same does not bar this Court in entertaining a petition, when the impugned orders are made in violation of rules of natural justice. Therefore the contention of the learned counsel for respondents is rejected.

6. Here is a case where petitioner was working as a watchman in a temple for a number of years. The said temple is a Muzrai institution under the control of the State Government. Allegations of misconduct had been made by the Muzrai officer against the petitioner in his show cause notice dated 14.08.1992 and petitioner was

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asked to offer his explanation to the allegations made therein. By his reply dated 24.08.1992 petitioner had denied all the allegations made in the charge memo and had even offered his explanation. if for any reason respondent was not convinced by the reply filed by the petitioner he should have appointed an enquiry officer to enquire in to the allegations made in the charge memo. Without doing so and without even advertng to the reply filed by the petitioner, in my view he could not have dismissed the petitioner from the services of the temple. In my view the orders made by the respondent authority is wholly arbitrary, illegal and opposed to rules of natural justice.

7. In that view of the matter, the orders made by the respondent authority dated 22.12.1992 is set aside, reserving liberty to the respondent authorities to proceed against the petitioner for the alleged acts of omissions and commissions from the stage defects are noticed by this court in accordance with law, if they so desire. Since the orders passed by the respondent authority is set aside a direction requires to be issued to the respondents to reinstate the petitioner into service and proceed with the enquiry if they so desire either by placing the petitioner under

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suspension or by continuing in service. The backwages and other benefits from the date of dismissal till the date of reinstatement into service will depend on the final outcome of the enquiry. Petitioner is at liberty to demand backwages if for any reason respondents do not proceed with the enquiry within three months from the date of receipt of a copy of this Court's order.

With these observations and directions petition is allowed. Rule made absolute. In the facts and circumstances of the case parties are directed to bear their own costs. Ordered accordingly.

Sd/-
JUDGE



LRS/WP3025.93

